



## MEMORANDUM

February 4, 2024

TO: Members of the Subcommittee on Energy, Climate, and Grid Security

FROM: Committee Majority Staff

RE: Hearing entitled “Politics Over People: How Biden’s LNG Export Ban Threatens America’s Energy and Economic Security”

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### I. INTRODUCTION

On Tuesday, February 6, 2024, at 10:00 a.m. (ET) in 2123 Rayburn House Office Building, the Subcommittee on Energy, Climate, and Grid Security will hold a hearing entitled “Politics Over People: How Biden’s LNG Export Ban Threatens America’s Energy and Economic Security.” The hearing will examine the Biden administration’s recently announced ban on issuing permits to export liquified natural gas (LNG), and the implications of this decision on the U.S. economy and energy security.

### II. WITNESSES

- **Toby Z. Rice**, President and CEO, EQT Corporation;
- **Brigham McCown**, Senior Fellow and Director, Initiative on American Energy Security, the Hudson Institute;
- **Eric Cormier**, Senior Vice President of Entrepreneurship and Strategic Initiatives, Southwest Louisiana Chamber Economic Development Alliance; and,
- **Gillian Gianetti**, Senior Attorney, Natural Resources Defense Council.

### III. BACKGROUND

#### A. General Background

The United States has emerged as the world’s number one producer of oil and natural gas, and the number one exporter of liquified natural gas (LNG). America’s status as a leading world producer and exporter of energy has brought significant benefits to the domestic economy, U.S. energy security, and allies overseas. Under both Democratic and Republican administrations, the Department of Energy (DOE) has consistently found that U.S. LNG exports serve the “public interest” because they contribute positive economic benefits and strengthen energy security for the American people, and also have the potential to reduce global greenhouse gas (GHG) emissions.<sup>1</sup>

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<sup>1</sup> See, e.g., [LNG Export Studies | Department of Energy and 2019 NETL LCA-GHG Report.pdf \(energy.gov\)](#)

DOE has studied the domestic benefits of LNG exports under multiple presidential administrations, beginning with President Obama, and has determined that as U.S. LNG exports increase, domestic production increases to meet global demand.<sup>2</sup> DOE has also studied the environmental effects of natural gas production and LNG exports, finding that U.S. LNG production and exports are the cleanest in the world.<sup>3</sup> According to these studies, LNG exports could add between \$50-73 billion to the U.S. economy by 2040, and between 220,000 and 453,000 American jobs by 2040. LNG exports can also create billions of dollars in revenues for federal, state and local governments, and increase downstream industries like manufacturing.

Expanded U.S. LNG exports also benefit U.S. energy security and national security by reducing the influence of Russia and OPEC in international markets. While U.S. LNG exports have allowed Europe to begin to diversify away from Russian natural gas, our allies and trading partners continue to be threatened by Russian supply disruptions and unfair pricing. Russia's war on Ukraine has exposed the world's vulnerability to unstable energy suppliers, emphasizing the importance of stable, secure, and more affordable American natural gas supplies.

## **B. Current LNG Export Law**

Under current law, any person wishing to import or export U.S. natural gas must obtain multiple Federal and State permits, undergoing a regulatory review that can take many years and cost millions of dollars. Applicants must obtain authorization from DOE to import or export natural gas and must also obtain approval from the Federal Energy Regulatory Commission (FERC) to construct and operate the LNG facility. Applicants must complete an environmental safety review of a proposed LNG export facility with FERC before DOE will consider whether to grant authorization to export natural gas to non-Free Trade Agreement (FTA) countries.

DOE derives its authority to regulate the import and export of natural gas under section 3 of the Natural Gas Act (NGA). Section 3(a) of the NGA sets forth the standard of review for U.S. LNG export applications. Section 3 establishes a rebuttable presumption that a proposed export of natural gas meets the public interest and requires DOE to grant an export application unless DOE can overcome the presumption. DOE is required to grant the export application unless DOE finds during the required hearing that the proposed exportation or importation is not in the public interest. The relevant provision of the NGA states, "The [Secretary] shall issue such order upon application, unless after opportunity for hearing, [she] finds that the proposed

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<sup>2</sup>See, Effect of Increased Levels of Liquefied Natural Gas on U.S. Energy Markets, conducted by the U.S. Energy Information Administration upon DOE's request (2014 EIA LNG Export Study); The Macroeconomic Impact of Increasing U.S. LNG Exports, conducted jointly by the Center for Energy Studies at Rice University's Baker Institute for Public Policy and Oxford Economics, on behalf of DOE (2015 LNG Export Study); an Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports, conducted by NERA Economic Consulting on behalf of DOE (2018 LNG Export Study).

<sup>3</sup> See, Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States, 79 FR 48132 (Aug. 15, 2014); Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States, 79 FR 32260 (June 4, 2014); and, 2019 Update to Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States, 84 FR 49278 (Sep. 19, 2019).

exportation or importation will not be consistent with the public interest.”<sup>4</sup> Applications requesting authority to export LNG to non-FTA countries require DOE to conduct a full public interest review.<sup>5</sup> Applications to export LNG to FTA countries are automatically “deemed in the public interest” under the NGA, and DOE is directed to grant them “without modification or delay.”

Prior to moving through the DOE application process, applicants must complete an environmental and safety review of a proposed LNG export facility with FERC. Under section 3 of the NGA, FERC has “the exclusive authority to approve or deny application for the siting, construction, expansion or operation, of an LNG terminal.”<sup>6</sup> FERC’s review requires an extensive environmental review of the entire project. FERC is required to ensure the environmental review is conducted pursuant to the National Environmental Policy Act (NEPA). This review is intended to be so comprehensive other federal agencies may rely on FERC’s environmental review documents to support the issuance of their own permits. If a project is approved after all of FERC’s environmental analyses are conducted, FERC issues an order certifying the projecting and authorizing the construction and operations of the facilities. Following the issuance of a certificate by FERC, the project then moves to DOE for a public interest review.

### **C. Biden Administration’s Ban on LNG Exports**

On January 26, 2024, the Biden administration announced that it would impose an indefinite ban on the issuance of export permits to non-FTA countries while it conducted a review to consider the climate impacts of natural gas. Rather than issuing an executive order or requesting that Congress legislate, the Biden administration announced this decision via a “Fact Sheet” noticed as a press release.<sup>7</sup> The Biden administration stipulates in the release that, “[t]he current economic and environmental analyses DOE uses to underpin its LNG export authorizations are roughly five years old and no longer adequately account for considerations like potential energy cost increases for American consumer and manufacturers beyond current authorizations or the latest assessment of the impact of greenhouse gas emissions.”<sup>8</sup> The announcements do not indicate an end point or timeline for this “indefinite pause.”

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<sup>4</sup> 15 U.S.C. § 717b

<sup>5</sup> The NGA does not explicitly define what is considered to be in the “public interest.” A wide range of criteria are considered as part of DOE’s public interest review process, including: domestic need for the natural gas proposed for export; adequacy of domestic natural gas supply; U.S. energy security; impact on the U.S. economy (GDP), consumers, and industry; jobs creation; U.S. balance of trade; international considerations; environmental considerations; consistency with DOE’s long-standing policy of promoting competition in the marketplace through free negotiation of trade arrangements; and other issues raised by commenters and/or interveners deemed relevant to the proceeding. *See The Department of Energy’s Role in Liquefied Natural Gas Export Applications*, Department of Energy Office of Fossil Energy and Carbon Management, (Nov. 8, 2011), <https://www.energy.gov/fecm/articles/departments-role-liquefied-natural-gas-export-applications>.

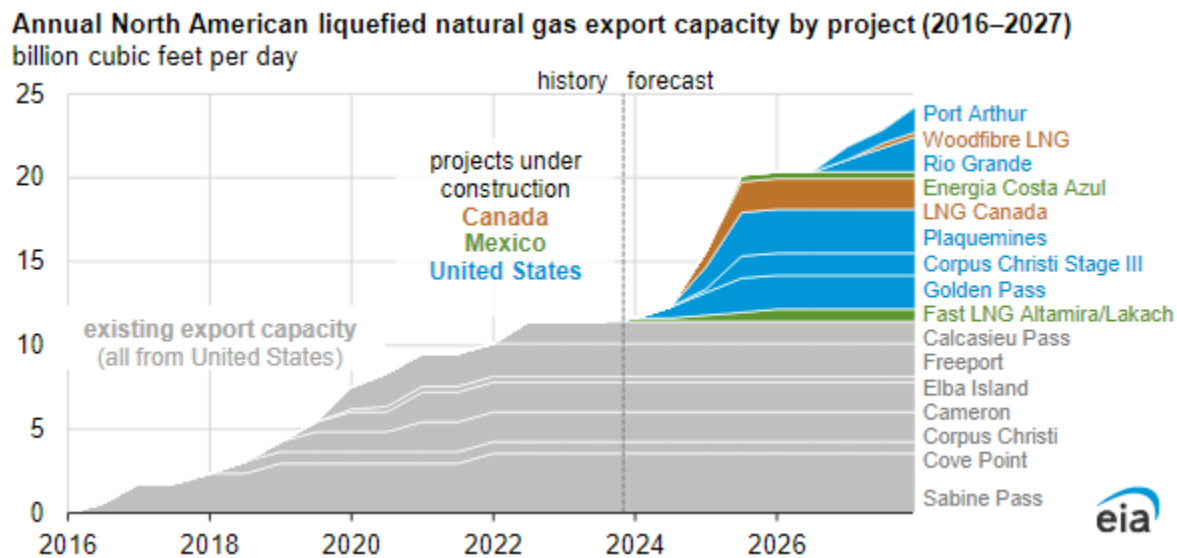
<sup>6</sup> 15 U.S.C. § 717b(e)(1)

<sup>7</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2024/01/26/fact-sheet-biden-harris-administration-announces-temporary-pause-on-pending-approvals-of-liquefied-natural-gas-exports/>

<sup>8</sup> *Id.*

## D. U.S. LNG Export Facilities

U.S. LNG export capacity has increased rapidly in recent years, from about 1 billion cubic feet per day (Bcf/day) in 2016 to about 11.4 Bcf/day at the end of 2022.<sup>9</sup> Europe was the main destination for U.S. LNG exports in 2022 after Russia's pipeline exports to the region declined to 40-year lows.<sup>10</sup> Five LNG export facilities are currently under construction with a combined 9.7 Bcf/d of LNG export capacity.<sup>11</sup> Prior to the Biden administration's announced ban on issuing LNG export permits, DOE was reviewing 18 separate non-FTA applications with a combined 23.5 Bcf/d of export capacity.<sup>12</sup>



## IV. ISSUES

- Benefits of U.S. LNG exports from an economic, climate, national security, energy security, and energy affordability perspective;
- Review of existing DOE and FERC authorities to approve LNG exports;
- Effect of the Biden administration's announced ban on issuing LNG export permits; and,
- Role of U.S. LNG exports in global energy markets.

## V. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Brandon Mooney, Elise Krekorian, or Mary Martin of the Committee staff.

<sup>9</sup> [Liquefied natural gas - U.S. Energy Information Administration \(EIA\)](#)

<sup>10</sup> [Europe was the main destination for U.S. LNG exports in 2022 - U.S. Energy Information Administration \(EIA\)](#)

<sup>11</sup> [LNG export capacity from North America is likely to more than double through 2027 - U.S. Energy Information Administration \(EIA\)](#)

<sup>12</sup> [Summary of LNG Export Applications 12.11.23.pdf \(energy.gov\)](#)